

FORM SUMMARY

Name of Form: **Dispositional Order-Protection or Services (Chapter 938)
Indian Child Welfare Act**

Form Number: **IW-1746**

Statutory Reference: §§938.34, 938.345, 938.355, 938.396(7)(a), Wisconsin Statutes

Benchbook Reference:

Purpose of Form: Formal order of the court detailing the disposition in a §938.13(4),(6),(6m), or (7) juvenile in need of protection or services (JIPS) case (this does not apply to a ch. 48 *juvenile* in need of protection or services).

Who Completes It: District attorney/corporation counsel.

Distribution of Form: Original to court, copies to juvenile, parents/guardian/legal custodian/Indian custodian, trustee, juvenile's attorney, district attorney/corporation counsel, social worker, tribe and other interested parties.

Accompanying Forms: If out-of-home placement is ordered, form JD-1753, Notice Concerning Grounds to Terminate Parental Rights, must be attached.

New Form/Modification: Modification; last update 04/08.

Modifications: Updated language to comply with 2009 Wisconsin Act 79 regarding sibling placement and visitation; diligent search and notice to relatives and other adults; and the permanency plan including out-of-state placements. Section 938.355(2)(b)1. requires that the dispositional order contain the "specific services" to be provided to the juvenile and juvenile's family.

Comments: This form is to be used when the juvenile is placed out of the home, because ICWA does not apply when the juvenile is placed in the home.

RMC recommends that the court not rely upon attachments alone as the basis for its findings. Where attachments are used, specific reference to the document title, page and paragraph should be made.

Additionally, in order to follow the requirements of the Indian Child Welfare Act, the order must contain a finding as to whether the continued custody of the juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the juvenile unless the finding was made at a previous hearing. This finding must be supported by the testimony of one or

more qualified expert witnesses. The order must also contain a finding whether active efforts have been made to prevent the break up of the Indian family unless the finding was made at a previous hearing. Finally, the order must state whether the placement preferences of ICWA have been followed.

RMC has concerns that out-of-home placements ordered to be effective in the future may violate ASFA rules. One suggested procedure in these cases is to first enter a dispositional order placing the juvenile at home, then revise the dispositional order pursuant to §938.363 upon the actual removal from the home. Another option is to adjourn the dispositional hearing until the actual removal date.

About this Form:

This form is the product of the Wisconsin Records Management Committee, a committee of the Director of State Court's Office and a mandate of the Wisconsin Judicial Conference.

If you have additional information that does not change the meaning of the form, attach it on a separate page. The form itself shall not be altered.